

Part 1 Organization

19-1-101 Short title.

This title is known as the "Environmental Quality Code."

Enacted by Chapter 112, 1991 General Session

19-1-102 Purposes.

The purpose of this title is to:

- (1) clarify the powers and duties of the Department of Environmental Quality in relationship to local health departments;
- (2) provide effective, coordinated management of state environmental concerns;
- (3) safeguard public health and quality of life by protecting and improving environmental quality while considering the benefits to public health, the impacts on economic development, property, wildlife, tourism, business, agriculture, forests, and other interests, and the costs to the public and to industry; and
- (4)
 - (a) strengthen local health departments' environmental programs;
 - (b) build consensus among the public, industry, and local governments in developing environmental protection goals; and
 - (c) appropriately balance the need for environmental protection with the need for economic and industrial development.

Enacted by Chapter 112, 1991 General Session

19-1-103 Definitions.

As used in this title:

- (1) "Department" means the Department of Environmental Quality.
- (2) "Executive director" means the executive director of the department appointed pursuant to Section 19-1-104.
- (3) "Local health department" means a local health department as defined in Title 26A, Chapter 1, Part 1, Local Health Department Act.
- (4) "Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state.

Enacted by Chapter 112, 1991 General Session

19-1-104 Creation of department -- Appointment of executive director.

- (1) There is created within state government the Department of Environmental Quality. The department shall be administered by an executive director.
- (2) The executive director shall be appointed by the governor with the consent of the Senate and shall serve at the pleasure of the governor.
- (3) The executive director shall have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the department's affairs.

- (4) The Legislature shall fix the compensation of the executive director in accordance with Title 67, Chapter 22, State Officer Compensation.

Amended by Chapter 176, 2002 General Session

19-1-105 Divisions of department -- Control by division directors.

- (1) The following divisions are created within the department:
- (a) the Division of Air Quality, to administer Title 19, Chapter 2, Air Conservation Act;
 - (b) the Division of Drinking Water, to administer Title 19, Chapter 4, Safe Drinking Water Act;
 - (c) the Division of Environmental Response and Remediation, to administer:
 - (i) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act; and
 - (ii) Title 19, Chapter 6, Part 4, Underground Storage Tank Act;
 - (d) the Division of Waste Management and Radiation Control, to administer:
 - (i) Title 19, Chapter 3, Radiation Control Act;
 - (ii) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act;
 - (iii) Title 19, Chapter 6, Part 2, Hazardous Waste Facility Siting Act;
 - (iv) Title 19, Chapter 6, Part 5, Solid Waste Management Act;
 - (v) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal;
 - (vi) Title 19, Chapter 6, Part 7, Used Oil Management Act;
 - (vii) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act;
 - (viii) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act;
 - (ix) Title 19, Chapter 6, Part 11, Industrial Byproduct Reuse; and
 - (x) Title 19, Chapter 6, Part 12, Disposal of Electronic Waste Program; and
 - (e) the Division of Water Quality, to administer Title 19, Chapter 5, Water Quality Act.
- (2) Each division is under the immediate direction and control of a division director appointed by the executive director.
- (3)
- (a) A division director shall possess the administrative skills and training necessary to perform the duties of division director.
 - (b) A division director shall hold one of the following degrees from an accredited college or university:
 - (i) a four-year degree in physical or biological science or engineering;
 - (ii) a related degree; or
 - (iii) a degree in law.
- (4) The executive director may remove a division director at will.
- (5) A division director shall serve as the executive secretary to the policymaking board, created in Section 19-1-106, that has rulemaking authority over the division director's division.

Amended by Chapter 451, 2015 General Session

19-1-106 Boards within department.

- (1) The following policymaking boards are created within the department:
- (a) the Air Quality Board, appointed under Section 19-2-103;
 - (b) the Drinking Water Board, appointed under Section 19-4-103;
 - (c) the Water Quality Board, appointed under Section 19-5-103; and
 - (d) the Waste Management and Radiation Control Board, appointed under Section 19-6-104.
- (2) The authority of the boards created in Subsection (1) is limited to the specific authority granted them under this title.

Amended by Chapter 451, 2015 General Session

19-1-108 Creation of Environmental Quality Restricted Account -- Purpose of restricted account -- Sources of funds -- Uses of funds.

- (1) There is created the Environmental Quality Restricted Account.
- (2) The sources of money for the restricted account are:
 - (a) radioactive waste disposal fees collected under Sections 19-3-106 and 19-3-106.4 and other fees collected under Subsection 19-3-104(5);
 - (b) hazardous waste disposal fees collected under Section 19-6-118;
 - (c) PCB waste disposal fees collected under Section 19-6-118.5;
 - (d) nonhazardous solid waste disposal fees collected under Section 19-6-119; and
 - (e) the investment income derived from money in the Environmental Quality Restricted Account.
- (3) In each fiscal year, the first \$400,000 collected from the waste disposal fees listed in Subsection (2), collectively, shall be deposited in the General Fund as free revenue. The balance shall be deposited in the Environmental Quality Restricted Account.
- (4) The Legislature may annually appropriate money from the Environmental Quality Restricted Account to:
 - (a) the department for the costs of administering radiation control programs;
 - (b) the department for the costs of administering solid and hazardous waste programs; and
 - (c) subject to Subsection (6), the Hazardous Substances Mitigation Fund, up to \$400,000, to provide money to:
 - (i) meet the state's cost share requirements for cleanup under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq. as amended; and
 - (ii) respond to an emergency as provided in Section 19-6-309.
- (5) After the requirements of Subsection (3) are met, sources of money for the restricted account described in Subsection (2)(a) may only be used for the purpose described in Subsection (4)(a).
- (6) An annual request for money to be appropriated from the Environmental Quality Restricted Account to the Hazardous Substances Mitigation Fund may be made by the department only after the executive director's review of the Environmental Quality Restricted Account's or the Hazardous Substances Mitigation Fund's balance as of the end of the fiscal year immediately before the general session for which the request is made.
- (7) In order to stabilize funding for the radiation control program and the solid and hazardous waste program, the Legislature shall in years of excess revenues reserve in the Environmental Quality Restricted Account sufficient money to meet departmental needs in years of projected shortages.
- (8) The Legislature may not appropriate money from the General Fund to the department as a supplemental appropriation to cover the costs of the radiation control program and the solid and hazardous waste program in an amount exceeding 25% of the amount of waste disposal fees collected during the most recent prior fiscal year.
- (9) Money appropriated under this part that is not expended at the end of the fiscal year lapses into the Environmental Quality Restricted Account.
- (10)
 - (a) The balance in the Environmental Quality Restricted Account may not exceed \$4,000,000 above the anticipated revenue need for the money in the restricted account for the fiscal year.

- (b) Excess funds under Subsection (10)(a) shall be credited on a proportionate basis to each person who paid money to the fund in the previous fiscal year.

Amended by Chapter 330, 2013 General Session